



September 7, 2005

in partnership with

Office of the Secretary
ATT: OCBO
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

RE: Request for comment regarding possible revision or elimination of rules under the Regulatory Flexibility Act DA-05-1524

My name is Lacey Cherrington, and I am the Vice President and General Manager of E Partner Net. We are a debt collection agency located in the state of Utah. I am one of the owners of a small family business that has been *substantially harmed* as a result of the Federal Communications Commission's regulatory decision under the Telephone Consumer Protection Act ("TCPA") that small businesses, such as mine, cannot use predictive dialers to call wireless numbers when attempting to recover delinquent payments for goods or services received by consumers.

I am aware that ACA International ("ACA") has filed a written comment with the Commission regarding this issue in response to the Commission's request for comments on the possible revision or elimination of rules under the Regulatory Flexibility Act, 5 U.S.C. § 610 ("RFA"), in proceeding DA-05-1524. See FCC Seeks Comment Regarding Possible Revision or Elimination of Rules Under the Regulatory Flexibility Act, DA-05-1524 (May 31, 2005). I fully support ACA's comment and the relief the Association seeks, including ACA's characterization of the harm visited upon small businesses as a result of the Commission's rule.

To the extent that my company uses predictive dialers, we do so to complete transactions for which consumers have obtained a benefit *without* payment. We do not telemarket, we collect money. The Commission should not permit its regulations to be used as a shield to encourage the non-payment of debts. Doing so harms small businesses, the economy, consumers, and merchants.

As it stands today, my company faces serious financial hardship due to the Commission's regulatory reversal that debt collectors cannot use predictive dialers to call a wireless number to attempt to recover outstanding payment obligations. The Commission's rule requires small companies, at great cost, to fundamentally alter our business models to reduce or remove our reliance on predictive dialers. The rule also needlessly subjects us to federal enforcement and private litigation risk, even though Congress never intended such an outcome.

For these reasons, I encourage the Commission to promptly clarify that predictive dialer calls to wireless numbers to attempt to recover payment obligations are not covered by the TCPA regulations for the reasons expressed by ACA.

Sincerely,

Lacey Cherrington
Vice President & General Manager

Fairway Park
746 East 1910 South, Suite #3
Provo, Utah 84606

Phone: (801) 223-9989 • Fax (801) 223-9499

